

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION

SILAS MARTIN,)	
)	
Petitioner,)	
)	
v.)	CIVIL CASE NO. 3:24-cv-148-RAH
)	
ROLANDA CALLOWAY,)	
)	
Respondent.)	

MEMORANDUM OPINION and ORDER

On September 3, 2024, the Magistrate Judge entered a Recommendation (Doc. 21) that Petitioner Silas Martin’s Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254 (Doc. 1) be dismissed for lack of jurisdiction because it is a successive petition which was filed without the required authorization from the Eleventh Circuit Court of Appeals. On September 16, 2024, the Petitioner filed a response, which the Court has construed as including Objections (Doc. 22) to the Recommendation.

After carefully reviewing the record in this case, the Recommendation of the Magistrate Judge, and the Petitioner’s Objections, the Court concludes that the Objections are due to be overruled, the Recommendation of the Magistrate Judge is due to be adopted, and the Petitioner’s § 2254 petition is due to be dismissed without prejudice for lack of jurisdiction.

When a party objects to a Magistrate Judge’s Report and Recommendation, a district court must review the disputed portions *de novo*. 28 U.S.C. § 636(b)(1); *see also United States v. Raddatz*, 447 U.S. 667, 674 (1980). The district court “may accept, reject, or

modify the recommended disposition; receive further evidence; or resubmit the matter to the magistrate judge with instructions.” 28 U.S.C. § 636(b)(1). *De novo* review requires that the district court independently consider factual issues based on the record. *Jeffrey S. by Ernest S. v. State Bd. of Educ. of State of Ga.*, 896 F.2d 507, 513 (11th Cir. 1990). However, objections to the Magistrate Judge’s Report and Recommendation must be sufficiently specific in order to warrant *de novo* review. *See LoConte v. Dugger*, 847 F.2d 745, 750 (11th Cir. 1988) (“Whenever any party files a timely and specific objection to a finding of fact by a magistrate, the district court has an obligation to conduct a *de novo* review of the record with respect to that factual issue.”). Otherwise, a Report and Recommendation is reviewed for clear error.

This case is the Petitioner’s fifth attempt to challenge, via habeas corpus, his 2007 Lee County conviction for attempted sodomy and a 25-year sentence. In the Recommendation, the Magistrate Judge concluded in relevant part that the Petitioner previously brought a § 2254 petition which was denied on the merits. (Doc. 21 at 2.) This dismissal constituted an adjudication on the merits so as to render his current petition a “second or successive” petition for purposes of 28 U.S.C. § 2244(b). Once again in his Objections, the Petitioner challenges the issuance of the arrest warrant and affidavit in his criminal case. He also states that the Eleventh Circuit previously dismissed his appeal. To the extent the Petitioner reiterates the claims and factual assertions contained in his § 2254 Petition, these general objections are reviewed for clear error and are overruled.

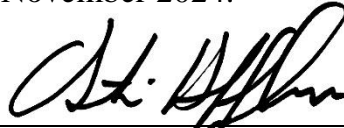
Accordingly, upon an independent review of the record, and for good cause, it is

ORDERED as follows:

1. The Petitioner's Objections (Doc. 22) are OVERRULED;
2. The Recommendation of the Magistrate Judge (Doc. 21) is ADOPTED;
3. The Petitioner's § 2254 Petition (Doc. 1) is DENIED without an evidentiary hearing;
4. This case is DISMISSED without prejudice.

A separate Final Judgment will be entered.

DONE, on this the 20th day of November 2024.



R. AUSTIN HUFFAKER, JR.
UNITED STATES DISTRICT JUDGE